THE HON'BLE SRI JUSTICE V.V.S.RAO

AND

THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.22445 of 2000

Dated: 07-06-2007

Between:

Borra Satyam.

..... PETITIONER

AND

The Government of A.P., rep. by the Secretariat,
Social Welfare (LTR) Department,
Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

AND

THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.22445 of 2000

ORDER: (per the Hon'ble Sri Justice V.V.S.Rao)

The petitioner's case is that he purchased an extent of Acs.2.00 comprised in survey No.96/KA/16 situated at Gowraram Village, Penuballi Mandal, Khammam District, under agreement of sale deed 05.02.1968. He also purchased another extent of Ac.0.20 gts on 10.12.1967. Statedly his name was entered in the Pahanis for the years 1968-1969 and
1969-1970. Third respondent initiated *suo motu* action under Section 3(1)(a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959, for brevity) and by order dated 17.03.1997 directed eviction of the petitioner for contravening the provisions of the Regulation No.I of 1959. The petitioner appealed. The appellate authority, namely, the Agent to Government-cum-District Collector, second respondent herein, verified the records. During such verification it was found that the land originally belong to one Kalluri Joga Rao who was having huge extent of land admeasuring Acs.580.20 guntas in his holding. It was also found that one Mallela Ramaiah and others were cultivating the land and that the name of the petitioner was interpolated though it was not there in the original entries. Having noticed this the appellate authority came to the conclusion that the claim of the petitioner is based on false and fabricated documents and accordingly rejected the appeal. The petitioner was also unsuccessful in the revision filed under Section 6 of the Regulation No.I of 1959 before the Government. The rejection order being G.O.Ms.No.89 dated 30.09.2000 is challenged in this writ petition.

The learned counsel for the petitioner mainly contends that the appellate authority rejected the appeal on a ground which was not the basis for ordering eviction by the original authority. Secondly he submits that the record based on which the appeal was rejected was not even furnished to the petitioner and therefore rejection of the appeal is unfair.

A counter-affidavit is filed opposing the writ petition. *Inter alia* it is stated that an extent of Acs.580.20 guntas was in the holding of pattadar K.Joga Rao and the name of the petitioner was never recorded as occupant/cultivating tenant. It is further stated that in the revenue

records, the name of the petitioner was interpolated and when the matter was pending before the revisional authority, the petitioner failed to produce any rebuttal evidence. No reply-affidavit by the petitioner is filed though counter was filed way back in 2001.

A perusal of the impugned order would show that the Government has verified the records especially Pahanis for the years 1968-1969, 1969-1970 and 1970-1971 of Gowraram Village and found that the petitioner's name was not included in the original entries and it was interpolated in the copies later. When the petitioner's occupation of the land itself is in doubt, he cannot rely on unregistered documents to claim title or possession of the land. Secondly a question whether the name of the petitioner was found included in the original Pahanies/revenue records is certainly a question of fact. Equally the question whether there was interpolation and if such interpolation is there, whether such interpolation was subsequent to the filing of the appeal or not are certainly matters of fact finding authority. This Court in exercise of power under Section 226 of the Constitution of India ordinarily cannot go into the questions of fact. We found no error in the impugned order 30.09.2000 passed by first respondent.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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V.V.S.RAO, J

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G.V.SEETHAPATHY, J

07th June, 2007
ghn